
IN THE SENATE OF THE UNITED STATES.

MARCH 19, 1869.

Ordered to be printed.

AMENDMENT

Intended to be proposed by Mr. DRAKE to the amendment reported by the Committee on the Judiciary to the bill (S. 44) to amend the judicial system of the United States, viz: Amend the amendment reported by the committee by striking out all after the enacting clause of section two and inserting the following in lieu thereof:

1 That the district courts of the United States shall have
2 original cognizance of all suits now originally cognizable by the
3 circuit courts of the United States; and the original jurisdic-
4 tion hereby vested in said district courts shall be as full and
5 complete as the same is now by law in said circuit courts.

1 SEC. 3. *And be it further enacted,* That all suits by
2 appeal or writs of error, now pending in said circuit courts
3 shall be certified, together with all the papers pertaining
4 thereto, for further proceedings, to the respective circuit
5 courts established by this act, and the last-named courts shall
6 have full and complete jurisdiction to hear and dispose of the
7 same and of all matters connected therewith, subject to the

8 rights of appeal and writs of error, as hereinafter prescribed;
9 and all suits of original cognizance still pending in the exist-
10 ing circuit courts of the United States are hereby transferred
11 to the district courts of the respective districts where said
12 circuit courts are now held, together with all the pleadings,
13 processes, and other papers and documents pertaining there-
14 to; and the clerks of said circuit courts shall deliver to the
15 clerks of the respective district courts all the records, books,
16 papers, documents, furniture, and other property belonging
17 to said circuit courts or the offices of the clerks thereof,
18 taking a receipt therefor; and thereupon the same shall be in
19 the legal custody of said district clerks, subject to the control
20 of said district courts. All process in suits of original cogni-
21 zance hereby transferred to the respective district courts,
22 which have been issued and not yet returned, shall be return-
23 able to the district courts as if originally issued therefrom;
24 and said district courts shall have as full jurisdiction over said
25 suits and all matters pertaining thereto as the said circuit
26 courts would have had if this act had never been passed.

1 SEC. 4. *And be it further enacted*, That hereafter there
2 shall be in each judicial circuit only one circuit court of the
3 United States, the judges of which shall be the justice of the
4 Supreme Court of the United States assigned to said circuit
5 and the several judges of the district courts within said cir-
6 cuit. Said justice of the Supreme Court shall be the presid-

7 ing judge of said circuit court, and all writs and other process
8 of said court shall be tested in his name; and during a
9 vacancy caused by his death, resignation, or otherwise, said
10 writs and other process shall be tested in the name of the dis-
11 trict judge in said circuit who is oldest in commission, and said
12 district judge shall preside in said circuit court whenever said
13 justice of the Supreme Court is absent therefrom. Each of
14 said circuit courts hereby established shall only have appellate
15 jurisdiction from and superintending control over the several
16 district courts within its circuit, with power to issue writs of
17 error, prohibition, mandamus, certiorari, scire facias, habeas
18 corpus, and other writs not specially provided for by statute
19 which may be necessary for the exercise of its jurisdiction
20 aforesaid. Each of said circuit courts shall have a seal, to be
21 devised by its presiding judge.

1 SEC. 5. *And be it further enacted*, That from final decrees
2 in a district court in causes of admiralty and maritime, and of
3 equity jurisdiction, an appeal shall be allowed to the said circuit
4 court for said district; and final judgments in a district court in
5 civil actions at common law may be re-examined and reversed
6 or affirmed in said circuit court upon a writ of error, where the
7 suits brought up by appeal, or upon writs of error, the matter
8 in dispute exceeds the sum of five hundred dollars, or where is
9 drawn in question any matter affecting the friendly relations
10 of the United States with a foreign power, or the construction

11 of a revenue act of Congress or of a treaty, or the validity
 12 of an act of Congress or of a treaty, or of a State statute or
 13 State constitution, on the ground of its repugnancy to the
 14 Constitution of the United States; and also final judgments
 15 in criminal cases where the defendant, on conviction, is sen-
 16 tenced to capital punishment or hard labor in a penitentiary.

1 SEC. 6. *And be it further enacted*, That in like manner
 2 all suits in which final decrees have been rendered in said
 3 circuit courts may be taken by appeal to the Supreme Court
 4 of the United States; and all civil suits in which final judg-
 5 ments have been entered in said circuit courts may be taken
 6 to said Supreme Court on writs of error where the matter in
 7 dispute exceeds the sum of dollars, and where
 8 there is drawn in question the construction of a treaty or
 9 other matter affecting the friendly relations of the United
 10 States with a foreign power, or the validity of a State
 11 statute or constitution, on the ground of its repugnancy
 12 to the Constitution of the United States: *Provided, how-*
 13 *ever*, That the presiding judge of a circuit court, or said
 14 court, may cause any legal question involved in a suit
 15 before said court, which is deemed of sufficient importance to
 16 require the final decision thereof to be by the Supreme Court,
 17 to be certified to said Supreme Court for its opinion thereon:
 18 *And provided further*, That said Supreme Court may by rule
 19 prescribe other classes of cases in which appeals and writs of

20 error may be had to the Supreme Court as aforesaid, and in
21 which legal questions may be certified to it for final decision.

1 SEC. 7. *And be it further enacted*, That each circuit
2 court hereby established shall appoint its own clerk, who shall
3 give bond in a sum and with sureties to be approved by the
4 court, for the faithful discharge of his official duties, and he
5 shall receive the same compensation and fees as, in like cases
6 and for like services, are allowed by law to the clerk of the
7 Supreme Court. And the marshals of the United States for
8 districts where said circuit courts respectively are held, shall
9 be the marshals of said circuit courts, with all the powers and
10 duties with respect thereto exercised by the marshal of the
11 Supreme Court, and they shall be entitled to the same fees
12 and compensation for like services, and shall give bond for
13 the faithful discharge of said official duties, to be approved by
14 said circuit courts respectively. Each of said circuit courts
15 shall appoint a reporter of its opinions, who shall perform
16 such duties as said court may from time to time prescribe.
17 A majority of the judges shall constitute a quorum for the
18 transaction of the regular business of any one of said circuit
19 courts, but any number, in the absence of the others, may
20 adjourn from time to time.

1 SEC. 8. *And be it further enacted*, That to secure sim-
2 plicity and uniformity of practice the Supreme Court shall
3 prescribe rules of pleading and practice for all civil actions at

4 common law in the said district courts ; and may prescribe
 5 rules for appeals and writs of error in all cases taken from the
 6 district to the circuit courts, and from the circuit courts to the
 7 Supreme Court.

1 SEC. 9. *And be it further enacted,* That each circuit
 2 court hereby established shall hold one term in each year,
 3 commencing on the first Monday of May, and may hold ad-
 4 journed and special terms as it, or its presiding judge, or a
 5 majority of its judges may order.

1 SEC. 10. *And be it further enacted,* That each district
 2 court shall hold two regular terms in each year, one commence-
 3 ing on the first Monday of March and the other on the first
 4 Monday of October; and it may hold adjourned or special
 5 terms as the judge thereof may order.

1 SEC. 11. *And be it further enacted,* That no suit shall
 2 be taken from a court of the United States to the Supreme
 3 Court other than those mentioned in section fifth of this act,
 4 nor in any manner other than as therein provided for.

1 SEC. 12. *And be it further enacted,* That the district
 2 and circuit courts may make for their respective courts such
 3 rules and orders, not inconsistent with acts of Congress and the
 4 rules prescribed by the Supreme Court, as they may deem
 5 necessary to carry into effect the provisions of this act.

1 SEC. 13. *And be it further enacted,* That the circuit

2 courts hereby established shall be held respectively at the fol-
 3 lowing places :

4 The first circuit court at Boston, in Massachusetts.

5 The second at New York, in New York.

6 The third at Philadelphia, in Pennsylvania.

7 The fourth at Baltimore, in Maryland.

8 The fifth at Montgomery, in Alabama.

9 The sixth at Cincinnati, in Ohio.

10 The seventh at Chicago, in Illinois.

11 The eighth at St. Louis, in Missouri.

12 The ninth at San Francisco, in California.

1 SEC. 14. *And be it further enacted*, That the salaries
 2 of the respective district judges shall hereafter be as follows:

3 Of the judges of the districts of Maine, New Hampshire,
 4 Connecticut, Vermont, Rhode Island, Delaware, Arkansas,
 5 Wisconsin, Iowa, Minnesota, Georgia, Alabama, North Caro-
 6 lina, South Carolina, Kansas, northern district of Florida,
 7 western district of Virginia, western district of Louisiana,
 8 western district of Missouri, western district of Texas, eastern
 9 district of Texas, and western district of Michigan, four thou-
 10 sand dollars.

11 Of the judges of the districts of New Jersey, Mississippi,
 12 Tennessee, Kentucky, Indiana, Oregon, western district of
 13 Pennsylvania, northern district of Ohio, southern district of
 14 Ohio, southern district of Illinois, eastern district of Virginia,

15 southern district of Florida, southern district of California,
16 and the eastern district of Michigan, four thousand five hun-
17 dred dollars.

18 Of the judges of the districts of Massachusetts, Mary-
19 land, northern district of New York, eastern district of Penn-
20 sylvania, eastern district of Missouri, and northern district of
21 Illinois, five thousand dollars.

22 Of the judges of the district of Nevada and the eastern
23 district of Louisiana, five thousand five hundred dollars.

24 Of the judges of the southern district of New York, east-
25 ern district of New York, and northern district of California,
26 six thousand dollars.

1 SEC. 15. *And be it further enacted*, That whenever a
2 district judge or justice of the Supreme court is required by
3 law to attend court at a place other than his residence he
4 shall be allowed and paid his reasonable expenses in travelling
5 to and from and attending said court; said expenses to be
6 paid by the United States marshal in attendance on said court
7 as similar expenses are now paid when the district judge dis-
8 charges the duties of such judge in another district.

1 SEC. 16. *And be it further enacted*, That all acts and
2 parts of acts inconsistent with this act are hereby repealed.